



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,249	08/03/2005	Jean-Luc Girardet	18545-720.831	6456

21971 7590 02/20/2008
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

EXAMINER

TEALE, MICHAEL J

ART UNIT	PAPER NUMBER
----------	--------------

1611

MAIL DATE	DELIVERY MODE
-----------	---------------

02/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/526,249	Applicant(s) GIRARDET ET AL.	
	Examiner MICHAEL J. TEALE	Art Unit 1611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22, 43-46, 48 and 49 is/are pending in the application.
- 4a) Of the above claim(s) 22, 46, 48, and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/13/2007 and 04/12/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1611

DETAILED ACTION

Applicant's election without traverse of Group II claims 43-45 in the reply filed on 01/08/2008 is acknowledged. Election of N-(2-bromo-4-methylphenyl)-2-(5-methyl-4-phenyl-4H-[1,2,4]triazole-3-ylsulfanyl)-acetamide, is also acknowledged. Claims 22, 46, 48 and 49 are withdrawn from further consideration pursuant 37 CFR 1.142(b), to as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant is advised that the restriction is made **Final**.

The examiner acknowledges the preliminary amendments filed 02/23/2005 and 04/04/2005. Of the original 49 claims, claims 1-21, 23-42, and 47 have been cancelled, and new claim 49 has been added. Therefore claims 22, 43-46, 48, and 49 are pending, and claims 43-45 are under examination.

The Information Disclosure Statements filed 04/12/2007, and 04/13/2007 are further acknowledged.

OBJECTIONS

Specification

Abstract:

The abstract of the disclosure is objected to because submission of the first page of an international patent publication is not a proper abstract. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Art Unit: 1611

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

REJECTIONS

Claim Rejection - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

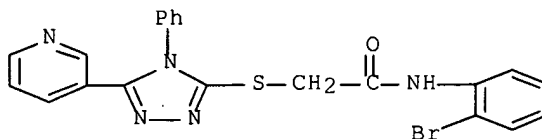
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 43-35 are rejected under 35 U.S.C. 102(b) as being anticipated by .

Instant application claims are drawn to compounds of formula VI: HET--W --C(R₁)(R₂)-C(Y)-N(R₄R₅) (see claim 43-45).

Soliman teaches the synthesis of 5-(N-Substituted carbamylmethylmercapto)-4-substituted 3-(3-pyridyl)-1,2,4-triazoles (I; R = Et, C₃H₅, Ph, C₆H₁₁; R₁ = substituted Ph, C₆H₁₁) were prepared by treating 5-mercapto-4-substituted 3-(3-pyridyl)-1,2,4-triazoles (II) with N-substituted 2-chloroacetamides (see Abstract). For example: N-(2-bromophenyl)-2-[[4-phenyl-5-(3-pyridinyl)-4H-1,2,4-triazol-3-yl]thio]-Acetamide. This compound reads on instant claims 43-45.



Art Unit: 1611

Allowance

Applicant is advised that the elected compound N-(2-bromophenyl)-2-[[4-phenyl-5-(3-pyridinyl)-4H-1,2,4-triazol-3-yl]thio]-Acetamide appears to be free of the art.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Teale Ph.D. whose telephone number is (571)-272-6897. The examiner can normally be reached on 7:30 am to 4:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571)-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MJT



MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600